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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,429	08/07/2006	Aloys Wobben	970054.494USPC	1461
500	7590	04/01/2009	EXAMINER	
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC			GONZALEZ, JULIO C	
701 FIFTH AVE			ART UNIT	PAPER NUMBER
SUITE 5400				2834
SEATTLE, WA 98104			MAIL DATE	DELIVERY MODE
			04/01/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/553,429	WOBBEN, ALOY
	<b>Examiner</b>	Art Unit Julio C. Gonzalez 2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 20 February 2009.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-26 is/are pending in the application.  
 4a) Of the above claim(s) 25 and 26 is/are withdrawn from consideration.  
 5) Claim(s) 1-12 and 17-24 is/are allowed.  
 6) Claim(s) 13-16 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 20 February 2009 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Newly submitted claims 25, 26 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the claim does not differentiate between a shadowed region and a region more illuminated and further discloses newly limitations such as ascertaining a predetermined position of the sun based on a current *date*.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 25, 26 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 13 – 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wobben (6,661,111) in view of Brinkmann (DE 19928048).

Wobben discloses a method/apparatus for a wind turbine using a light sensor (column 3, lines 51, 51) for detecting the light intensity and shutting down the wind turbine at predetermined sun values (see abstract). Also, an input display is used (column 1, lines 50 - 53) and the sun values can be replaced by new ones (column 2, lines 48 - 50). Also, the wind turbine is controlled at above/below light intensity values (column 3, lines 19 – 43). Moreover, it is disclosed that the light intensity is measured over a certain time (see claim 6).

However, Wobben does not disclose using a plurality of sensors.

On the other hand, Brinkmann discloses for the purpose of preventing nearby buildings from being subjected to unpleasant flickering shadows cast by rotor blades, a wind turbine (see figure 4) having light sensors 23, 24 (see figure 2) and such light sensors being coupled to controller 6, 7 (see figure 4) and light sensor 23 measuring a fist light intensity and sensor 24 measuring a shadowed light intensity (see machine translation of German document DE 19928048). Also, it is disclosed that the wind turbine is controlled based on the difference between the input light from sensors 23, 24 (see figure 3 & machine translation of German document DE 19928048).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the wind power installation as disclosed above and to modify the invention by using a plurality of light sensors for the purpose of preventing nearby buildings from being subjected to unpleasant flickering shadows cast by rotor blades as disclosed by Brinkmann.

***Response to Arguments***

4. Applicant's arguments filed 02/20/09 have been fully considered but they are not persuasive.

The prior art (Brinkmann) shows in figure 2, two (plurality) light sensors being spaced apart.

5. With respect to claims 13 – 16, Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

***Allowable Subject Matter***

6. Claims 1 – 12, 17 – 24 are allowed.

The remarks in combination with the amendment done to the claims are convincing. See remarks sent by applicant on 2/20/09 for further detail.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julio C. Gonzalez whose telephone number is 571-272-2024. The examiner can normally be reached on M-F (8AM-5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Quyen Leung can be reached on 571-272-8188. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Julio C. Gonzalez/  
Primary Examiner, Art Unit 2834

March 26, 2009

/J. C. G./  
Primary Examiner, Art Unit 2834